

Remarks/Arguments

These remarks/arguments are responsive to the October 28, 2004 Office Action.

Claims 1-17 are in this case.

In the October 28, 2004 Office Action, the Examiner required applicant to elect a single disclosed species for prosecution under 35 U.S.C. § 121.

According to the Examiner the application contains claims directed to the following patentably distinct species of the claimed invention:

Group 1: figures 1-4; Group 2: figure 5; Group 3: figure 6; Group 4: figure 7; Group 5: figure 8; Group 6: figure 9; Group 7: figure 10; Group 8: figure 11; Group 9: figure 12; Group 10: figure 13; Group 11: figure 14; and, Group 12: figure 15.

Applicant respectfully traverses this restriction requirement; however, for the purpose of providing a responsive argument, Applicant provisionally elects claims directed to Group 1 and all the claims that read thereon.

Restriction Requirement Incomplete

It is the Examiner's burden to identify which claims are directed to different species and in particular to identify which elements of the claims are considered to restrict the claims to a particular disclosed species to make the requirement clear. (See M.P.E.P. §§814-817). According to M.P.E.P. §816, "The particular reasons relied on by the Examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated." In the October 28, 2004 Office Action, the Examiner failed to state which claims are believed to be directed to different species. Instead the Examiner has only provided conclusory statements that the application contains claims directed to patentable distinct species identified by the various figures. The Examiner has

failed to even provide an indication as to why the figures illustrate patentably distinct species. The Examiner then attempts to improperly shift the burden of identifying the claims to applicant by stating “Applicant is advised that a reply to this requirement must include an identification of the species that is elected . . . and a listing of all claims readable thereon. . .” This attempt to shift the burden is improper and applicant respectfully holds the Examiner to his burdens of identifying the claims and why the Examiner believes they are directed to patentably distinct species.

Clearly this restriction requirement is inadequate and Applicant respectfully requests Examiner to reconsider and withdraw the restriction requirement.

According to the Examiner, currently no claim is generic. Applicant respectfully disagrees with the Examiner. Independent Claim 1 reads on each of figures 1-15. Applicant respectfully submits that if the Examiner disagrees then the Examiner does not understand the claims or the figures and applicant respectfully requests and interview with the Examiner prior to the issuance of the next Office Action.

Claim 1 recites a box having “a plurality of ribs, secured to a plurality of bases, at least 1 of said plurality of bases is adhered to the bottom of the box, the plurality of ribs are selectively moveable between a storage position and a support position, the storage position being substantially flat relative to said bottom and said support position being substantially perpendicular relative to said bottom; a connector coupled to said plurality of ribs and configured to extend from the inside of the box to the outside of the box, wherein the connector is configured to simultaneously move the plurality of ribs between the storage position and the support position; and to prevent the ribs from moving back to the storage position by mating with the box.” Each of these elements can be found in


• each of the figures. Accordingly, applicant respectfully traverses the restriction requirement.

No new matter has been added.

This response attends to each point noted by the Examiner. The claims are proper and patentable. Allowance is respectfully requested. However, should the Examiner deem that further clarification of the record is in order, we invite a telephone call to the Applicant to expedite further processing of the claims to allowance.

Dated: November 29, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard M. Lehrer", is written over a horizontal line.

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